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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/649,969

08/26/2003

Peter Robert Ford

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05/03/2005

EXAMINER

CHEVALIER, ALICIA ANN

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ART UNIT

PAPER NUMBER

1772

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/649,969

Applicant(s)

FORD ET AL.

Examiner

Alicia Chevalier

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) 32-59 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/12/04, 3/10/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Claims 1-59 are pending in the application, claims 32-59 are withdrawn from consideration due to Applicant's election.
2. Amendments to claims, filed on February 18, 2005, have been entered in the above-identified application.

#### ***Election/Restrictions***

3. Applicant's election of Group I, claims 1-31, in the reply filed on February 18, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
4. Claims 32-59 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on February 18, 2005.

#### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Cook (U.S. Patent No. 5,411,785).

Regarding Applicant's claim 1, Cook discloses a vehicle weatherseal (*col. 3, lines 24-26*) for releasably contacting a panel (*col. 5, lines 43-47*). The weatherseal comprises a panel contacting portion (*strip, col. 5, line 7*) for releasably contacting the panel (*col. 5, lines 43-47*) and a reflective surface on the panel contacting portion (*high gloss surface, col. 6, lines 25-27*). A high gloss surface is deemed to be a reflective surface.

7. Claims 24 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Okeya et al. (U.S. Patent No. 6,180,545).

Okeya discloses a tape comprising a reflective cord along a length, which includes a plurality of reflective filaments (*col. 1, lines 7-17*).

The preamble "automotive weatherseal" is deemed to be a statement with regard to the intended use and is not further limiting in so far as the structure of the product is concerned. In article claims, a claimed intended use must result in a ***structural difference*** between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. MPEP § 2111.02.

8. Claims 1 and 26-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Keeney et al. (U.S. Patent No. 6,370,824).

Regarding Applicant's claim 1, Keeney discloses a vehicle weatherseal (*title*) for releasably contacting a panel (*col. 1, lines 15-17*). The weatherseal comprises a panel contacting portion (*weather strip, col. 1, line 38*) for releasably contacting the panel (*col. 1, lines 15-17*) and

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a reflective surface on the panel contacting portion (*glossy finish, col. 6, lines 25-27*). A glossy finish is deemed to be a reflective surface.

Regarding Applicant's claim 26, Keeney discloses an automobile weatherseal (*title*) comprising a reflective flock extending along the length of the weatherseal (*col. 1, lines 39-57*).

Regarding Applicant's claim 27, Keeney discloses that the reflective flock includes a flocked reflective material, since the reference discloses that the flocking is provided with a glossy finish (*col. 1, lines 39-57*).

Regarding Applicant's claim 28, Keeney discloses that the reflective flock includes non reflective material, since the reference discloses that the flock can be made of black material (*col. 1, lines 39-57*).

9. Claims 1-11, 13, 14, 17, 18, 20, 21 and 29-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Edwards (U.S. Patent No. 5,183,613).

Regarding Applicant's claim 1, Edwards discloses a vehicle weatherseal for releasably contacting a panel (*glass run channel, col. 1, lines 20-31*), the weatherseal comprises a panel contacting portion for releasably contacting the panel (*substrate, col. 6, line 39*) and a reflective surface on the panel contacting portion (*coating with microspherical glass beads, col. 10, lines 25-29*). The coating is deemed to have a reflective surface since it contains reflective particles, i.e. microspherical glass beads.

Regarding Applicant's claim 2, Edwards disclose that the reflective surface includes a multitude of reflective particles (*microspherical glass beads, col. 10, line 29*).

Regarding Applicant's claim 3, Edwards discloses that the multitude of reflective particles from friction reducing projections (*abrasion-resistance, col. 10, line 26*).

Regarding Applicant's claim 4, Edwards discloses that the panel contacting portion includes a substrate (*col. 6, line 39*) and the reflective surface (*coating, col. 8, line 37*) is located on the substrate (*figure 1*). The reflective surface is deemed to have a lower coefficient of friction than the substrate, since the coating reduces friction, i.e. abrasion resistant (*col. 10, lines 25-26*).

Regarding Applicant's claim 5, Edwards discloses that the weatherseal further comprises a plurality of surface roughness forming friction reducing particles (*abrasion-resistant microspherical glass beads, col. 10, lines 25-29*).

Regarding Applicant's claim 6, Edwards discloses a reflective vehicular weather seal (*glass run channel, col. 1, lines 20-31*), comprising a polymeric substrate (*substrate, col. 6, line 39*) having a vehicle engaging portion (*figure 5*) and an exposed surface (*coating, col. 8, line 37*) and a multitude of reflective particles embedded in at least a portion of the exposed surface (*microspherical glass beads, col. 10, line 29*).

Regarding Applicant's claim 7, the particles are deemed to be embedded at a sufficient distance to preclude unintended separation from the polymeric substrate, since Edwards discloses that the particles are mixed into the coating (*col. 10, lines 25-27*) and the coating and substrate have an excellent adhesive bond to each other (*col. 8, lines 49-50*).

Regarding Applicant's claim 8, Edwards discloses that the weatherseal further comprises a bonding agent (*polyolefin coating, col. 10, lines 25-27*) intermediate a portion of the particles and the substrate (*figure 1*)

Regarding Applicant's claim 9, Edwards discloses an automotive weatherseal (*glass run channel, col. 1, lines 20-31*) comprising a weather seal body (*substrate, col. 6, line 39*) and a

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powder coating (*col. 19, lines 1-2*) on the weatherseal body, wherein in the powder coating includes reflective particles (*glass beads, col. 19, line 6*).

Regarding Applicant's claims 10 and 13, Edwards discloses that the weatherseal body is a thermoses material (*col. 6, line 55*) and the powder is a thermoplastic material (*polyethylene powders, col. 19, lines 1-2*).

Regarding Applicant's claim 11, the powder coating is deemed to be heat fusible since the powder is made of polyethylene.

Regarding Applicant's claim 14, the weatherseal body is deemed to include a trim portion and the powder is located on the trim portion (*figure 1*). The areas that comprising the powder coating on the weatherseal body are deemed to be the trim portions.

Regarding Applicant's claim 17, Edwards discloses an automotive weatherseal (*glass run channel, col. 1, lines 20-31*) comprising a weatherseal body (*substrate, col. 6, line 39*) and a reflective powder coating (*col. 19, lines 1-2*) on at least a portion of the weatherseal body. The powder coating is deemed to be reflective because it contains reflective particles (*glass beads, col. 19, line 6*).

Regarding Applicant's claim 18, the powder coating is deemed to be heat fusible since the powder is made of polyethylene.

Regarding Applicant's claim 20, Edwards discloses that the powder is a thermoplastic material (*polyethylene powders, col. 19, lines 1-2*).

Regarding Applicant's claim 21, the weatherseal body is deemed to include a trim portion and the powder is located on the trim portion (*figure 1*). The areas that comprising the powder coating on the weatherseal body are deemed to be the trim portions.

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Regarding Applicant's claim 29, Edwards discloses an automotive weatherseal comprising an extruded reflective surface extending along the length of the weatherseal (*col. 8, line 40*).

Regarding Applicant's claim 30, Edwards discloses an automobile weatherseal comprises a reflective surface (*coating with microspherical glass beads, col. 10, lines 25-29*). The limitation "molded" is a method limitation and does not determine the patentability of the product, unless the process produces unexpected results. The method of forming the product is not germane to the issue of patentability of the product itself, unless Applicant presents evidence from which the Examiner could reasonably conclude that the claimed product differs in kind from those of the prior art. MPEP 2113.

Regarding Applicant's claim 31, the reflective surface is deemed to substantially define a cross section of the weatherseal.

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person
  - having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 15, 16, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards (U.S. Patent No. 5,183,613) in view of Cook (U.S. Patent No. 5,411,785).

Regarding Applicant's claims 15 and 22, Edwards is relied upon as described above.



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Edwards fails to disclose that the weatherseal further comprises a metallic reinforcing member.

Cook discloses that it is known to stiffen or reinforce internally thermosetting elastomer extrusions by using metal carriers (*col. 1, lines 44-45*).

Edwards and Cook are analogous because they both disclose vehicle weatherseals.

It would have been obvious to one of ordinary skill in the art at the time of the invention to add a metal, i.e. metallic, reinforcing member as disclosed by Cook into Edwards weatherseal in order to stiffen or reinforce internally the material (*Cook col. 1, lines 44-45*).

Regarding Applicant's claims 16 and 23, Edwards is relied upon as described above.

Edwards fails to disclose that the weatherseal further comprises a sealing portion.

Cook discloses a vehicle weatherseal (*col. 3, lines 24-26*) comprising a U-shaped edge trim and a sealing portion formed of a different material (*col. 5, line 59 through col. 6, line 14*).

Edwards and Cook are analogous because they both disclose vehicle weatherseals.

It would have been obvious to one of ordinary skill in the art at the time of the invention to add a sealing portion of a different material as disclosed by Cook on to Edwards weatherseal in order to configure and seal the weatherseals to different vehicles.

12. Claim 12 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards.

Edwards is relied upon as described above.

Edwards fails to disclose that the powder coating comprises a thermoset.

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It has been held that finding the members of a class of prior art polymers which are best suited for a particular purpose is not a patentable invention. *Ex parte Fauser* (POBA 1953) 128 USPQ 156.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a thermoset polymer.

### ***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Alicia Chevalier

4/28/05